

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF VIRGINIA
Lynchburg Division**

In re:

Angela L. Jones

Debtors

Case No. 14-62321-RBC
Chapter 13

ANGELA L. JONES,

Debtor/Plaintiff,

v.

AP No.: _____

HIGHPOINT OF CULPEPER HOMEOWNERS
ASSOCIATION, INC.

Attn: Chadwick Washington (as counsel/authorized agent)
3201 Jermantown Rd., Ste. 600
Fairfax, Virginia 22030

Defendant.

**COMPLAINT TO AVOID HOMEOWNERS' ASSOCIATION LIEN
OF
HIGHPOINT OF CULPEPER HOMEOWNERS ASSOCIATION, INC.**

COMES NOW the Debtor/Plaintiff, Angela L. Jones, by counsel, pursuant to 11 U.S.C. § 506, and she hereby files this Complaint to avoid certain homeowners' association liens, held by the Creditor/Defendant, Highpoint of Culpeper Homeowners Association, Inc., on certain real property owned by the Debtor, and in support thereof she states as follows:

1. The Debtor/Plaintiff's underlying bankruptcy case was commenced, by the Debtor, by filing a voluntary petition under Chapter 13 of the Bankruptcy Code on November 26, 2014.
2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334.
3. This is a core proceeding under 28 U.S.C. § 157(b)(2)(K).
4. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409(a).

5. In the Debtors' Schedule A, the Debtors apprised the Court that the Debtor owns real property, commonly known as and located at 2110 Blue Spruce Drive, Culpeper, Culpeper County, Virginia 22701 (the "Property"), more particularly described as:

Lot 20, HIGHPOINT OF CULPEPER, Phases 1 & 2, as the same appear duly dedicated, platted and recorded in the instrument Number 040000552, and in Plat Cabinet 8, Slides 102-105, among the land records of Culpeper County, Virginia.

Tax Map No. 50F 4 1 20.

6. The Property is valued at \$184,700.00, based upon the most recent Culpeper County real estate tax assessment, a copy of which is attached hereto as Exhibit 1.
7. As provided for in Proof of Claim No. 14, the Property is encumbered by a Deed of Trust (the "Deed of Trust"), held by HSBC Bank USA, National Association, as Indenture Trustee of the FBR Securitization Trust 2005-2, Callable Mortgage-Backed Notes, Series 2005-2, with an approximate balance owed of \$286,948.58. The Deed of Trust was recorded on March 30, 2005 at 03:04 p.m., at Instrument #050003547, in the Culpeper County, Virginia Circuit Court Clerk's Office.
8. Pursuant to Proof of Claim No. 13, the Property is encumbered by two homeowners' association liens (the "Liens"), dated February 13, 2013 and December 31, 2013, respectively, held against the Property by the Defendant with an approximate total balance owed of \$1,054.46. Said Liens were recorded in the land records of the Clerk of the Circuit Court of Culpeper County, Virginia.
9. Because the amount owed on the Deed of Trust exceeds the value of the Property, there is no equity to which the two Liens may attach.
10. The Debtors' modified Chapter 13 Plan, dated and filed May 29, 2015, has therefore proposed that the Liens be avoided in their entirety, and that the entirety of the debt be made into an unsecured claim, to be paid pro rata with any other allowed unsecured claims for which proofs of claim have been timely and properly filed.
11. The Debtors further propose that Debtor's counsel will submit to the Court, for entry, an Order avoiding the Defendant's Liens, which Order would then be separately recorded by Debtor's counsel in the land records of the Clerk of the Circuit Court of Culpeper County, Virginia upon completion of the Debtor's Chapter 13 Plan.

WHEREFORE, the Debtor/Plaintiff respectfully requests that the Court enter an Order stating that the Liens of the Defendant, in the approximate amount of \$1,165.56, and recorded in the land records of the Clerk of the Circuit Court of Culpeper County, Virginia, be, and that they hereby are, avoided in their entirety, and that the underlying debt be made an unsecured claim to be paid pro rata with all other allowed unsecured claims in the Debtor's Chapter 13 case, upon the proper and timely filing of a proof of claim, and to award the Plaintiff such other and further relief, including reasonable costs incurred and attorneys fees earned and agreed to by the Debtor in conjunction with the preparation and adjudication of this Complaint, as is just and proper.

Dated this May 29, 2015.

/s/ John P. Goetz

John P. Goetz, VSB #78514

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